

**RICHARDSON**  
RICHARDSON EDWARDS LLP ROBINSON, PA  
**PLOWDEN**  
ATTORNEYS

**MYRTLE BEACH** P.O. Box 3646 • Myrtle Beach, SC 29578  
2103 Farlow St., Suite B, Myrtle Beach, SC 29577 P 843.448.1008 F 843.448.1533

[www.RichardsonPlowden.com](http://www.RichardsonPlowden.com)

FEB 19 1968  
 RESEARCH CENTER  
 UNIVERSITY OF CALIFORNIA

The Honorable Charles L. A. Terreni  
Chief Clerk and Administrator  
The Public Service Commission of S.C.  
P. O. Drawer 11649  
Columbia, S.C. 29211

Dear Mr. Terreni:

By copy of this letter, I am serving all parties of record with a copy of the Petition as indicated on the attached Certificate of Service.

If you should have any questions concerning this matter please contact my office.

With kind personal regards, I am

Sincerely,

Steve W. Hamm  
C. Jo Anne Wessinger Hill

Enclosures

cc: Ms. Nanette S. Edwards, Esquire (ORS)  
Ms. Victoria Mandell, Esquire (Level 3 Communications, LLC)

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA

FILED  
2007 MAY - 4 PM 4:39  
COLUMBIA, SC

IN RE:

Level 3 Communications, LLC  
Tariff No. 2007-103

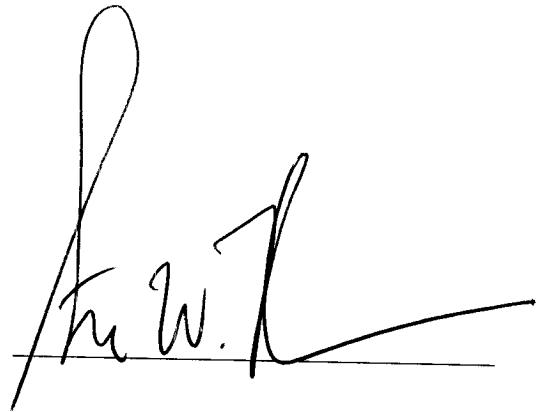
CERTIFICATE OF SERVICE

This is to certify that I have caused to be served this day, May 4, 2007, one (1) copy of Verizon's Petition to Intervene in the above referenced matter by placing a copy of same in the care and custody of the United States Postal Service, first class postage prepaid to the following Party of Record:

**VIA HAND DELVIERY**

Ms. Nanette S. Edwards, Esquire  
Office of Regulatory Staff  
Post Office Box 11263  
Columbia, South Carolina 29211

Ms. Victoria Mandell , Esquire  
Level 3 Communications, LLC  
1025 Eldorado Boulevard  
Broomfield, Colorado 80021



May 4, 2007  
Columbia, South Carolina

**BEFORE THE  
SOUTH CAROLINA PUBLIC SERVICE COMMISSION**

**IN RE:**

**Level 3 Communications, LLC  
Tariff No. 2007-103**

**PETITION TO INSTITUTE  
INVESTIGATION  
AND  
PETITION TO INTERVENE**

**PETITION OF VERIZON FOR COMMISSION TO INSTITUTE INVESTIGATION  
OF LEVEL 3 TARIFF FILING AND  
PETITION TO INTERVENE**

The Verizon companies<sup>1</sup> authorized to provide telecommunications services in South Carolina hereby respectfully petition the Public Service Commission of South Carolina ("Commission") to promptly institute an investigation of the above-referenced tariff filing made by Level 3 Communications, LLC ("Level 3"). Such an investigation is warranted because Level 3 is seeking to increase its intrastate switched access charges by more than **700 percent**. Pursuant to 103-836.A(3) of the South Carolina Code of Regulations, Verizon also petitions the Commission to permit it to intervene in this proceeding in order to protect its interests as a purchaser of Level 3's switched access services and to object to the tariff filing.

On April 12, 2007, Level 3 filed with the Commission revisions to its intrastate switched access tariff, SC P.S.C. Tariff No. 4, and proposed an effective date of May 1, 2007. By letter dated April 16, 2007, the Commission's Program Coordinator informed Level 3 that its tariff had been received and assigned it Tariff No. 2007-103. The Commission's letter indicated that Level 3's tariff would be considered "in accordance with Flexible Regulation approved by the Commission via Order No. 2003-699 in Docket No. 1998-353-C." Ordering paragraph 2 of that earlier order specified that Level 3's tariff filings are "subject to the Commission's right within thirty (30) days to institute an investigation of the tariff filing, in which case the tariff filing would be suspended pending further Order of the Commission."

<sup>1</sup> MCI Communications Services, Inc; MCImetro Access Transmission Services LLC d/b/a Verizon Access Transmission Services ("Verizon Access"); Verizon Select Services, Inc; Verizon Long Distance f/n/a Bell Atlantic Communications; and Verizon Enterprise Solutions f/n/a NYNEX Long Distance Co. (collectively, "Verizon").

Through its tariff filing, Level 3 seeks to increase its local end office switching rate from \$0.006979 to \$0.02275 per minute of use, and to add a carrier common line rate of \$0.026390 per minute.<sup>2</sup> These two changes would raise the combined per minute charge for these two rate elements from \$0.000679 per minute of use to \$0.04914. These revisions would force Verizon to pay Level 3 more than four cents a minute more for switched access than Verizon now pays under Level 3's existing tariff. The effect is an increase of **700%** above the current rate.

Verizon requests that the Commission investigate, suspend and reject this unjustified increase. Significantly, Level 3 provided no explanation or justification for this dramatic increase in its rates.<sup>3</sup> The cover letter accompanying its tariff changes simply states that the tariff contains "revisions" to its existing tariff that are intended "to update" its current rates. An increase of this magnitude is not a mere "revision", nor is it just or reasonable. Verizon and all other carriers that deliver interexchange calls to Level 3 for termination to its customers have no choice but to pay Level 3's access rates because they must handle and deliver interexchange calls made to Level 3's customers.<sup>4</sup> Thus, all similarly situated carriers will face significant price increases if the tariff is permitted to take effect. In these circumstances, regulatory intervention is warranted.

There is no justification for allowing Level 3 to recover even more of its network costs from other carriers, through higher access charges, rather than from its own end users. As the FCC has observed, economically efficient competition and the consumer benefits it yields cannot be achieved as long as carriers seek to recover disproportionately more of their costs from other carriers, rather than from their own end users.<sup>5</sup> Such distorted access rate structures "lead to inefficient and undesirable economic behavior," *CALLS Order*, ¶ 129, including suppression of

---

<sup>2</sup> The current port charge of \$0.0008 would remain unchanged.

<sup>3</sup> These large price increases are being made only 12 months after Level 3 last revised its switched access tariff, at which time it added the port charge.

<sup>4</sup> In Order No. 2003-699, the Commission stated that Level 3's "local exchange service tariff filings" would be presumed valid upon filing. While this is an appropriate policy for the carrier's competitive retail service offerings, it is not clear whether the same presumption is or should be applied to the rates for Level 3's switched access services, since interexchange carriers have no choice but to pay Level 3's terminating switched access rates.

<sup>5</sup> See *Access Charge Reform: Reform of Access Charges Imposed by Competitive Local Exchange Carriers*, Seventh Report and Order and Further Notice of Proposed Rulemaking in CC Docket No. 96-262 (2001); *Multi-Association (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, Second Report & Order and Further Notice of Proposed Rulemaking in CC Docket No. 00-256, Fifteenth Report & Order in CC Docket No. 96-45, and Report & Order in CC Docket Nos. 98-77 and 98-166, 16 FCC Rcd 19613 (2001) ("MAG Order"); *Access Charge Reform; Price Cap Performance Review for Local Exchange Carriers; Low-Volume Long Distance Users; Federal-State Joint Board On Universal Service*,

demand for the services of other carriers that must bear the costs and reduced incentives for local entry by firms that might be able to provide service more efficiently than the exchange carrier that is imposing excessive access fees. *Id.* ¶ 114.

There is ample precedent for the Commission to investigate and prevent the proposed rate increases from going into effect. Level 3's tariff filing in South Carolina is part of a concerted effort by the company to raise its intrastate switched access rates in a number of states. Significantly, regulatory authorities in four other states (Mississippi, West Virginia, Tennessee and Massachusetts) have recently suspended Level 3's tariffs and ordered an investigation.<sup>6</sup> Upon information and belief, Verizon understands that Level 3's tariffs have also been suspended or withdrawn in Alabama, Georgia, Illinois and Oklahoma. In ordering the suspension, the West Virginia Commission acted on the recommendation of its staff, which observed that "due to the fact that connecting carriers have no choice regarding connecting to Level 3 for the purposes of completing calls to its customers, and thus must pay the subject rate in those instances, this becomes a de facto monopoly situation."<sup>7</sup>

Each of the Verizon companies identified above is a carrier that will be subject to the substantial switched access charge increases proposed by Level 3 or, in the case of Verizon Access, a CLEC and competitor of Level 3, it will be affected if Level 3 succeeds in

---

Sixth Report and Order in CC Docket Nos. 96-262 and 94-1, Report and Order in CC Docket No. 99-249, Eleventh Report and Order in CC Docket No. 96-45, 15 FCC Rcd 12962 (May 31, 2000) ("*CALLS Order*").

<sup>6</sup> *Level 3 Communications, LLC, Notice of Tariff Filing Which Proposes to Make Certain Changes to Switched Access Rate*, Public Service Commission of Mississippi, Suspension Order (April 20, 2007); *Level 3 Communications, LLC, Tariff filing to update rates for switched access services*, Public Service Commission of West Virginia, Commission Suspension Order (April 19, 2007); *Level 3 Communications, LLC, Item 07-00098, motion to suspend tariff approved during Tennessee Regulatory Authority Conference* (written order not yet available) (April 30, 2007); *Investigation by the Department on its own motion as to the propriety of the rates and charges set forth in the following tariff: M.D.T.C. No. 5, filed with the Department on March 29, 2007, to become effective May 1, 2007, by Level 3 Communications, L.L.C., D.T.C. 07-1, Order*, Massachusetts Department of Telecommunications and Cable (April 30, 2007).

<sup>7</sup> Case No. 07-0566-T-T, *supra*, Public Service Commission of West Virginia Utilities Division, Further Recommendation (April 16, 2007).

implementing an inappropriate pricing scheme that recovers disproportionately more of its costs from other carriers than from its end users, thereby affording it an unfair competitive advantage. Because interconnecting carriers must handle and terminate interexchange traffic that is destined for Level 3's customers, Verizon must pay that company's access charges on such calls. Verizon would face significant increases in its costs if Level 3's new rates were permitted to take effect.

For these reasons, Verizon petitions the Commission to suspend and investigate Level 3's proposed tariff and, upon thorough investigation, deny the rate increase requested. Verizon also requests that the Commission permit it to intervene in the proceeding in order to fully protect its interest in this matter.

Respectfully submitted this the 4<sup>th</sup> day of May 2007.

BY: 

Delaney L. O'Roark  
General Counsel  
Verizon South Inc.  
6 Concourse PKWY  
Atlanta, GA 30328  
Tel: (770) 284-5498

Steven W. Hamm, Esquire  
Richardson, Plowden, Carpenter & Robinson  
1900 Barnwell Street  
Columbia, South Carolina 29202  
Tel: (803) 771-4400

Counsel for Verizon South Inc.

Counsel for Verizon South Inc.